

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION

Bobby Joe Gilliam,	)	
	)	C/A No. 6:08-cv-4111-GRA
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	(Written Opinion)
City of Greer, a Municipal Corporation,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court on the plaintiff Gilliam's Motion to Remand. For the reasons stated herein, the Court GRANTS the motion and remands the action back to Greenville County, South Carolina Court of Common Pleas.

The plaintiff filed this action on November 26, 2008 in Greenville County, South Carolina Court of Common Pleas alleging various state law causes of action arising out of several instances of alleged wrongful arrests by city police officers. The defendant removed to this Court claiming this Court has jurisdiction under 28 U.S.C. § 1443 on December 23, 2008. The defendant alleges that the plaintiff has brought a civil rights action making removal proper as federal question jurisdiction exists.

In order for removal jurisdiction to be proper, a federal court must have original jurisdiction. *See* 28 U.S.C. § 1441(a). The burden of proving that removal is proper lies in the removing party, Defendant City of Greer. *Sonoco Products Co. v. Physicians Health Plan, Inc.*, 338 F.3d 366, 371 (4<sup>th</sup> Cir. 2003). The defendant argues

that jurisdiction is proper according to 28 U.S.C. § 1331. Section 1331 provides that “district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Defendant argues that the plaintiff’s causes of action arise out of an alleged civil rights violation, so the case arises under the Constitution of the United States.

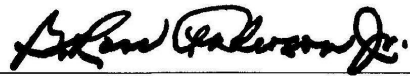
The presence of federal question jurisdiction is determined by the well-pleaded complaint rule. *Gully v. First Nat’l Bank*, 299 U.S. 109, 112-13 (1936). Federal question jurisdiction exists “only when a federal question is presented on the face of the plaintiff’s properly-pleaded complaint.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). Federal law clearly establishes the right of plaintiffs to choose their forum. “[P]ursuant to the well-pleaded complaint rule, the plaintiff is the master of his claim, and he may avoid federal jurisdiction by exclusive reliance on state law.” *Burbage v. Richburg*, 417 F. Supp. 2d 746, 749 (D.S.C. 2006) (citations omitted).

Based on the well-pleaded complaint rule, this Court holds that Plaintiff’s complaint asserts no federal question, and Plaintiff’s claims are properly brought under state law. The fleeting reference to the civil rights violation in the Relief section of the Complaint does not invoke federal jurisdiction. On the face of the Complaint, the plaintiff has not alleged a federal civil rights violation nor any other federal claim. The causes of action are state law causes of action, so this Court is without jurisdiction.

It is therefore ORDERED that Plaintiff's Motion to Remand is GRANTED. The Clerk of Court is directed to remand this action to the Court of Common Pleas Greenville County State Court.

It is also ORDERED that the proposed amended scheduling order is DENIED as moot.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "G. Ross Anderson, Jr.", is written over a horizontal line.

G. ROSS ANDERSON, JR.  
UNITED STATES DISTRICT JUDGE

February 19, 2009  
Anderson, South Carolina